
By: **Delegate Hurson**

Introduced and read first time: February 7, 2003

Assigned to: Health and Government Operations

A BILL ENTITLED

1 AN ACT concerning

2 **Insurance Premiums Tax - Health Maintenance Organizations - Funding for**
3 **Outpatient Mental Health Treatment**

4 FOR the purpose of requiring the Maryland Medical Assistance Program to reimburse
5 certain providers of outpatient mental health treatment a certain amount of the
6 Program fee for certain individuals; defining certain terms; imposing the
7 insurance premiums tax on health maintenance organizations; providing that
8 the premiums to be taxed include certain amounts paid to health maintenance
9 organizations; requiring the revenue from a certain tax imposed on health
10 maintenance organizations to be distributed annually to a certain fund; creating
11 the Outpatient Mental Health Treatment Fund; specifying the purpose and uses
12 of the Fund and that the Fund is a special, nonlapsing fund that is not subject to
13 certain provisions of law; providing that certain funds revert to the General
14 Fund; providing for the application of this Act; and generally relating to
15 imposing the insurance premiums tax on health maintenance organizations and
16 a certain Program reimbursement amount to certain providers of outpatient
17 mental health treatment.

18 BY repealing and reenacting, without amendments,
19 Article - Health - General
20 Section 15-101(a) and (i)
21 Annotated Code of Maryland
22 (2000 Replacement Volume and 2002 Supplement)

23 BY repealing and reenacting, with amendments,
24 Article - Health - General
25 Section 15-105 and 19-727
26 Annotated Code of Maryland
27 (2000 Replacement Volume and 2002 Supplement)

28 BY repealing and reenacting, with amendments,
29 Article - Insurance
30 Section 6-101, 6-102(b), and 6-104(a)
31 Annotated Code of Maryland

1 (1997 Volume and 2002 Supplement)

2 BY adding to

3 Article - Insurance

4 Section 6-103.2 and 6-103.3

5 Annotated Code of Maryland

6 (1997 Volume and 2002 Supplement)

7 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
8 MARYLAND, That the Laws of Maryland read as follows:

9 **Article - Health - General**

10 15-101.

11 (a) In this title the following words have the meanings indicated.

12 (i) "Program" means the Maryland Medical Assistance Program.

13 15-105.

14 (a) IN THIS SECTION, "DUAL ELIGIBILITY" MEANS SIMULTANEOUS
15 ELIGIBILITY FOR HEALTH INSURANCE COVERAGE UNDER BOTH THE PROGRAM AND
16 MEDICARE.

17 (B) The Department shall adopt rules and regulations for the reimbursement
18 of providers under the Program. However, except for an invoice that must be
19 submitted to a Medicare intermediary or Medicare carrier for an individual [who may
20 have both Medicare and Medicaid coverage] WITH DUAL ELIGIBILITY, payment may
21 not be made for an invoice that is received more than 1 year after the dates of the
22 services given.

23 [(b)] (C) A provider who fails to submit an invoice within the required time
24 may not recover the amount later from the Program recipient.

25 [(c)] (D) (1) The Department shall adopt regulations for the
26 reimbursement of specialty outpatient treatment and diagnostic services rendered to
27 Program recipients at a freestanding clinic owned and operated by a hospital that is
28 under a capitation agreement approved by the Health Services Cost Review
29 Commission.

30 (2) (i) Except as provided in subparagraph (ii) of this paragraph, the
31 reimbursement rate under paragraph (1) of this subsection shall be set according to
32 Medicare standards and principles for retrospective cost reimbursement as described
33 in 42 CFR Part 413 or on the basis of charges, whichever is less.

34 (ii) The reimbursement rate for a hospital that has transferred
35 outpatient oncology, diagnostic, rehabilitative, and digestive disease services to an

1

Article - Insurance

2 6-101.

3 (a) The following persons are subject to taxation under this subtitle:

4 (1) a person engaged as principal in the business of writing insurance
5 contracts, surety contracts, guaranty contracts, or annuity contracts;6 (2) A HEALTH MAINTENANCE ORGANIZATION AUTHORIZED BY TITLE 19,
7 SUBTITLE 7 OF THE HEALTH - GENERAL ARTICLE;

8 (3) an attorney in fact for a reciprocal insurer;

9 [(3)] (4) the Maryland Automobile Insurance Fund; and

10 [(4)] (5) a credit indemnity company.

11 (b) The following persons are not subject to taxation under this subtitle:

12 (1) a nonprofit health service plan corporation that meets the
13 requirements established under §§ 14-106 and 14-107 of this article;

14 (2) a fraternal benefit society;

15 (3) [a health maintenance organization authorized by Title 19, Subtitle
16 7 of the Health - General Article;17 [(4)] (4) a surplus lines broker, who is subject to taxation in accordance with
18 Title 3, Subtitle 3 of this article;19 [(5)] (4) an unauthorized insurer, who is subject to taxation in
20 accordance with Title 4, Subtitle 2 of this article; or21 [(6)] (5) the Short-Term Prescription Drug Subsidy Plan created under
22 Title 15, Subtitle 6 of the Article.

23 6-102.

24 (b) Premiums to be taxed include:

25 (1) the consideration for a surety contract, guaranty contract, or annuity
26 contract;27 (2) SUBSCRIPTION CHARGES OR OTHER AMOUNTS PAID TO A HEALTH
28 MAINTENANCE ORGANIZATION ON A PREDETERMINED PERIODIC RATE BASIS BY A
29 PERSON OTHER THAN A PERSON SUBJECT TO THE TAX UNDER THIS SUBTITLE AS
30 COMPENSATION FOR PROVIDING HEALTH CARE SERVICES TO MEMBERS;31 (3) dividends on life insurance policies that have been applied to buy
32 additional insurance or to shorten the period during which a premium is payable; and

1 [(3)] (4) the part of the gross receipts of a title insurer that is derived
2 from insurance business or guaranty business.

3 6-103.2.

4 NOTWITHSTANDING § 2-114 OF THIS ARTICLE, THE REVENUE FROM THE TAX
5 IMPOSED ON HEALTH MAINTENANCE ORGANIZATIONS SHALL BE DISTRIBUTED
6 ANNUALLY TO THE OUTPATIENT MENTAL HEALTH TREATMENT FUND CREATED
7 UNDER § 6-103.3 OF THIS SUBTITLE.

8 6-103.3.

9 (A) IN THIS SUBSECTION, "FUND" MEANS THE OUTPATIENT MENTAL HEALTH
10 TREATMENT FUND.

11 (B) THERE IS AN OUTPATIENT MENTAL HEALTH TREATMENT FUND.

12 (C) THE PURPOSE OF THE FUND IS TO PROVIDE FUNDS TO THE MENTAL
13 HYGIENE ADMINISTRATION OF THE DEPARTMENT OF HEALTH AND MENTAL
14 HYGIENE TO PROVIDE REIMBURSEMENT FOR OUTPATIENT MENTAL HEALTH
15 TREATMENT AS PROVIDED IN THIS SECTION.

16 (D) THE SECRETARY OF HEALTH AND MENTAL HYGIENE SHALL ADMINISTER
17 THE FUND.

18 (E) (1) THE FUND IS A SPECIAL, NONLAPSING FUND.

19 (2) THE TREASURER SHALL HOLD THE FUND SEPARATELY AND THE
20 COMPTROLLER SHALL ACCOUNT FOR THE FUND.

21 (F) THE FUND CONSISTS OF ANY REVENUE RECEIVED FROM THE TAX
22 IMPOSED ON HEALTH MAINTENANCE ORGANIZATIONS UNDER THIS SUBTITLE.

23 (G) ANY INTEREST OR OTHER INVESTMENT EARNINGS OF THE FUND SHALL
24 BE CREDITED AND PAID INTO THE FUND.

25 (H) (1) THE FUND MAY BE USED ONLY TO PROVIDE FUNDS TO THE MENTAL
26 HYGIENE ADMINISTRATION OF THE DEPARTMENT OF HEALTH AND MENTAL
27 HYGIENE TO REIMBURSE OUTPATIENT MENTAL HEALTH TREATMENT REQUIRED
28 UNDER § 15-105(E)(2) OF THE HEALTH - GENERAL ARTICLE.

29 (2) TO THE EXTENT THAT FUNDS ARE NOT REQUIRED TO ACCOMPLISH
30 THE PURPOSE STATED IN PARAGRAPH (1) OF THIS SUBSECTION, FUNDS REMAINING
31 IN THE FUND AT THE END OF THE FISCAL YEAR SHALL REVERT TO THE GENERAL
32 FUND OF THE STATE.

33 (I) THE TREASURER SHALL INVEST THE MONEY OF THE FUND IN THE SAME
34 MANNER AS ANY OTHER STATE MONEY MAY BE INVESTED.

35 (J) EXPENDITURES FROM THE FUND MAY BE MADE ONLY IN ACCORDANCE
36 WITH THE STATE BUDGET.

1 6-104.

2 (a) Subject to subsection (b) of this section, in computing the tax under this
3 section, the following deductions from gross direct premiums allocable to the State
4 are allowed:

5 (1) returned premiums, not including surrender values;

6 (2) dividends that are:

7 (i) paid or credited to policyholders; or

8 (ii) applied to buy additional insurance or to shorten the period
9 during which premiums are payable; AND

10 (3) returns or refunds made or credited to policyholders because of
11 retrospective ratings or safe driver rewards[]; and

12 (4) premiums received by a person subject to taxation under this subtitle
13 under policies providing health maintenance organization benefits to the extent:

14 (i) of the amounts actually paid by the person to a nonprofit health
15 maintenance organization authorized by Title 19, Subtitle 7 of the Health - General
16 Article that operates only as a health maintenance organization that is exempt from
17 taxes under § 19-727(b) of the Health - General Article; or

18 (ii) that the premiums have been paid by a health maintenance
19 organization that is exempt from taxes under § 19-727(b) of the Health - General
20 Article].

21 SECTION 2. AND BE IT FURTHER ENACTED, That, notwithstanding any
22 other provision of law, and except as otherwise provided in this section, this Act
23 applies to premiums written for all policies, contracts, and health benefit plans
24 issued, delivered, or renewed in the State on or after July 1, 2003. This section does
25 not apply to premiums written for health benefit plans issued, delivered, or renewed
26 in the State before July 1, 2003. Any health benefit plan in effect before July 1, 2003,
27 shall comply with the provisions of this Act no later than July 1, 2004.

28 SECTION 3. AND BE IT FURTHER ENACTED, That in taxable years
29 beginning after December 31, 2003, the exemption under § 10-104 of the Tax -
30 General Article shall apply to a health maintenance organization authorized by Title
31 19, Subtitle 5 of the Health - General Article.

32 SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take
33 effect July 1, 2003.